

**SOAH DOCKET NO. 329-14-2114.ALC
TALCB COMPLAINT NO. 13-322**

**TEXAS APPRAISER LICENSING
AND CERTIFICATION BOARD ("BOARD")**

V.

**ROBERT CHANDLER SMITH
LICENSE NO. TX-1337411-L**

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**BEFORE THE TEXAS APPRAISER
APPRAISER LICENSING AND
CERTIFICATION BOARD**

**SITTING IN AUSTIN
TRAVIS COUNTY, TEXAS**

FINAL ORDER

On this 15th day of August, 2014, the Board considered the above case on August 15, 2014.

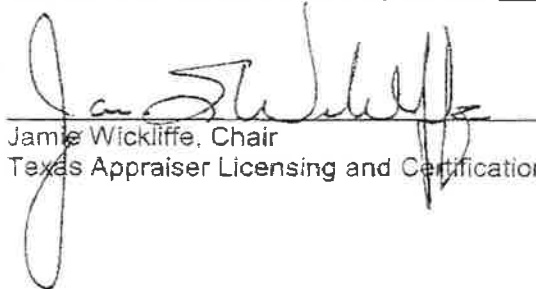
After proper notice was given, the above-styled case was heard at the State Office of Administrative Hearings ("SOAH") by an Administrative Law Judge ("ALJ") on April 22, 2014. On April 28, 2014, the ALJ filed a Proposal for Decision ("PFD") containing Findings of Fact and Conclusions of Law. The PFD was properly served on each party, and each party was given an opportunity to file exceptions and replies as part of the administrative record.

The Board, after review and consideration of the PFD, attached as Exhibit A, adopts the Findings of Fact and Conclusions of Law of the ALJ contained in the PFD and incorporates those findings and conclusions into this Final Order as if these were fully set out and separately stated in this Final Order. All proposed Findings of Fact and Conclusions of Law submitted by any party that are not specifically adopted in this Final Order are denied.

IT IS THEREFORE ORDERED by the Board that the Texas state appraiser license of Robert Chandler Smith is revoked, and he is assessed an administrative penalty of \$5,000.00, effective 5:00 p.m. September 12, 2014.

If enforcement of this Final Order is restrained or enjoined by court order, this Final Order is effective upon a final determination by the court or an appellate court in favor of the Board.

Approved by the Board and signed this 20 day of August, 2014.



Jamie Wickliffe, Chair
Texas Appraiser Licensing and Certification Board

State Office of Administrative Hearings



Cathleen Parsley
Chief Administrative Law Judge

April 28, 2014

Douglas E. Oldmixon
Administrator
Texas Appraiser Licensing and Certification Board
1700 N. Congress Avenue, Suite 400
Austin, TX 78701

VIA INTERAGENCY

RE: Docket No. 329-14-2114.ALC; Texas Appraiser Licensing and Certification Board v. Robert Chandler Smith

Dear Mr. Oldmixon:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 Texas Administrative Code § 155.507(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. O'Malley".

Michael J. O'Malley
Administrative Law Judge

MJO/Ls
Enclosure

xc: Troy Beaulieu, Staff Attorney, 1700 N. Congress Ave., Suite 400, Austin, TX -
VIA INTERAGENCY
Robert Chandler Smith, 8127 Mesa Drive, Ste. B-206-177, Austin, TX 78759 - **VIA REGULAR MAIL**
Mark Mrnak, TALCB, 1700 N. Congress Ave., Suite 400, Austin, TX 78701 -
VIA INTERAGENCY

300 W. 15th Street, Suite 502, Austin, Texas 78701/ P.O. Box 13025, Austin, Texas 78711-3025
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SOAH DOCKET NO. 329-14-2114.ALC

**TEXAS APPRAISER LICENSING AND
CERTIFICATION BOARD,**

Petitioner

V.

**ROBERT CHANDLER SMITH
TX-1337411-L,**

Respondent

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The Staff of the Texas Appraiser Licensing and Certification Board (Staff/TALCB) seeks revocation of the real estate appraiser certification held by Robert Chandler Smith (Respondent) and assessment of an administrative penalty of \$5,000.00. Staff alleges that Respondent violated the Texas Appraiser Licensing and Certification Act and TALCB's rules by altering and forging credentialed documents, and by misrepresenting to his client the person who conducted the appraisal. Respondent did not appear at the hearing. The Administrative Law Judge (ALJ) concludes this matter should proceed on a default basis; that the allegations in the notice of hearing and original statement of charges are deemed admitted; that Respondent violated TALCB's rules and statute; and that Respondent's certification should be revoked. Further, Respondent should be assessed an administrative penalty of \$5,000.00, as requested by Staff.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

TALCB and the State Office of Administrative Hearings (SOAH) have jurisdiction over this matter, as set out in the Conclusions of Law.

On February 10, 2014, Staff sent notice of the hearing, along with the original statement of charges, to Respondent's most recent address as shown in TALCB's records, in accordance with 22 Texas Administrative Code § 157.9. The notice was sent more than ten days before the hearing, as required by Texas Government Code § 2001.051. The notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and

rules involved; and a short, plain statement of the matters asserted, as required by Texas Government Code § 2001.052.

The hearing was convened as scheduled before ALJ Michael J. O'Malley on April 22, 2014, at SOAH's offices in Austin, Texas.¹ Staff appeared at the hearing. Respondent did not appear. Staff offered evidence and testimony in the record to show jurisdiction, notice, and TALCB's authorization and precedent for the proposed sanction. Staff moved to proceed on a default basis, which was granted. The hearing was adjourned and the record closed the same day, April 22, 2014.

II. DISCUSSION

Based upon the following Findings of Fact and Conclusions of Law and in accordance with 1 Texas Administrative Code § 155.501, TALCB's motion for default is granted. The ALJ recommends that Respondent's state real estate appraiser certification be revoked and that he be assessed an administrative penalty of \$5,000.00, as recommended by Staff.

III. FINDINGS OF FACT

1. Respondent, Robert Chandler Smith, is a state-certified real estate appraiser who currently holds certification number TX-1337411-L and held that license during all times material to the conduct alleged by the Staff of the Texas Appraiser Licensing and Certification Board (Staff/TALCB).
2. Respondent's address, as provided to TALCB, is 8127 Mesa Drive, Suite B206-177, Austin, Texas 78759.
3. On February 10, 2014, Staff sent notice of the hearing, along with the original statement of charges, to Respondent's address of record with TALCB.
4. The notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.

¹ Respondent appeared at the April 14, 2014 telephonic prehearing conference and indicated he was ready to proceed to the hearing on the merits scheduled for April 22, 2014.

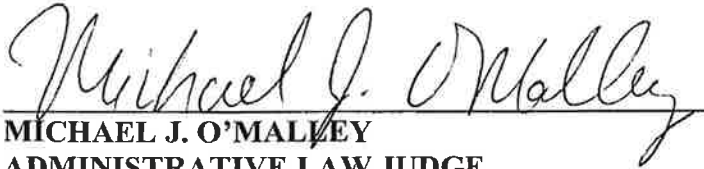
5. The notice included a disclosure, in at least 12-point, bold-face type, that the factual allegations listed in the notice could be deemed admitted, and the relief sought in the notice could be granted by default, if Respondent failed to appear at the hearing.
6. On or about April 26, 2013, Respondent prepared and submitted an appraisal report for his client, Eugene A. Naparst.
7. The appraisal of the property had a report date of April 26, 2013, and an effective date of April 19, 2014.
8. Attached to the appraisal report was a copy of a real estate credential purportedly issued by TALCB to Robert Chandler Smith for state license number TX-1337411-L.
9. The purported credential was not issued by TALCB. The purported credential was invalid because it had been tampered with to make it appear as a valid credential.
10. Respondent's father, also named Robert Chandler Smith, had his credential as a state certified residential real estate appraiser (TX-1333292-R) revoked by final order on April 16, 2011.
11. Respondent was aware of the altered purported credential or participated in the tampering of the purported credential.
12. The purported credential was hand-delivered to Mr. Naparst during the inspection of the property in an effort to misrepresent that the credential was valid.
13. Respondent did not inspect Mr. Naparst's property, but represented to Mr. Naparst that he inspected the property.
14. Respondent's father inspected the property.
15. Respondent represented to Staff that he inspected the property.
16. Respondent allowed his father to inspect the property knowing that his father's credential as an appraiser had been revoked.
17. On August 22, 2013, Mr. Naparst filed a complaint.
18. After numerous requests, Respondent failed to provide Staff his work file material in connection with the complaint.
19. On April 14, 2014, the Administrative Law Judge (ALJ) convened a telephonic prehearing conference in which Respondent appeared and announced that he was ready to proceed to hearing on April 22, 2014.
20. The hearing was convened as scheduled before ALJ Michael J. O'Malley on April 22, 2014, at the State Office of Administrative Hearings' (SOAH's) offices in

Austin, Texas. Staff appeared at the hearing. Respondent did not appear. The hearing was adjourned and the record closed the same day, April 22, 2014.

IV. CONCLUSIONS OF LAW

1. TALCB has jurisdiction over this matter pursuant to Texas Occupations Code §§ 1103.451-1103.5545.
2. SOAH has jurisdiction over all matters relating to the conduct of a hearing in this proceeding, including the preparation of a proposal for decision with findings of fact and conclusions of law, pursuant to Texas Occupations Code §§ 1103.508 and 1103.518 and Texas Government Code ch. 2003.
3. Pursuant to 22 Texas Administrative Code § 157.9(b), service of the notice of hearing upon Respondent was complete and effective upon proper mailing of the notice to Respondent's most recent address as shown by the records of the Board.
4. Adequate and timely notice of the hearing was provided in accordance with Texas Government Code §§ 2001.051 and 2001.052, 22 Texas Administrative Code § 157.9, and SOAH's default rule, 1 Texas Administrative Code § 155.501.
5. The factual allegations set out in the notice of hearing and the original statement of charges are deemed admitted, pursuant to 1 Texas Administrative Code § 155.501.
6. Respondent violated Texas Occupations Code § 1103.405 and failed to comply with 22 Texas Administrative Code §§ 153.20(a)(1), (6), (7), (12), (18), (19), (20), and (24); 155.1; and 153.24(f).
7. Respondent's license should be revoked and he should be assessed an administrative penalty of \$5,000.00, pursuant to 22 Texas Administrative Code §§ 153.20(a) and 153.24(j)(2) and (j)(3)(C), and Texas Occupations Code §§ 1103.518 and 1103.552.

SIGNED April 28, 2014.


MICHAEL J. O'MALLEY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARING